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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 28th April 2005

No.4172–li/1(BH)-101/1995-L.E.— In pursuance of Section 17 of the Industrial Disputes Act,1947 (14 of 1947), the Award, dated the 7th March 2005 in I.D. Case No. 74/1996 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial disputes between the management of the General Manager, Baripada Spinning Mill, Kathpal, Baripada and its workman Shri Jadu Hembram was referred for adjudication is hereby published as in the schedule below :

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 74 OF 1996

Dated the 7th March 2005

Present :

Shri P. K. Sahoo, O.S.J.S. (Jr. Br.)
Presiding Officer,
Labour Court, Bhubaneswar.

Between :

The Management of the . . First-party—Management
General Manager, Baripada
Spinning Mill, Kathpal,
Baripada.

And

Its Workman . . Second-party—Workman
Shri Jadu Hembram.

Appearances :

For the First-party—Management . . None

For the Second-Party—Workman himself. . . Shri J. Hembram

AWARD

The State Government in exercise of powers conferred by sub-section (5) of Section 12 read with clause (C) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 have referred the matter in dispute to this Court in the Labour & Employment Department memo No.5430(5)/LE., dated 14-5-1996 for adjudication and Award.

2. The terms of reference may briefly be stated as follows :

“ Whether the action of the management of Baripada Spinning Mill, Kathpal, Baripada, Dist. Mayurbhanj in discharging Shri Jadu Hembram, Doffer Gaiter, Ring Frame Department of the Mill from service with effect from 20-9-1994 is legal and and/or justified ? If not, to what relief he is entitled ?”

3. The brief facts giving rise to the present reference are that workman Jadu Hembram was working as Doffer Gaiter in the Ring Frame Department of Baripada Spinning Mill (in short the management) till the date of his discharge from service with effect from 20-9-1994. According to the workman basing on the false allegation of assaulting the Assistant Manager (Personnel) of the management and using filthy and obsequious language and without conducting any domestic enquiry he was illegally dismissed from his service with effect from the said date. It is alleged that the allegation alleged against him were all false, baseless and concocted. The management without conducting any enquiry and without following the mandate of Section 25-F of the Industrial Disputes Act, 1947 (in short the Act) discharged him from service with effect from 20-9-1994 which was according to him, illegal and unjustified. On the above backgrounds he raised a dispute before the District Labour Officer, Mayurbhanj, Baripada but the conciliation proceeding initiated by the District Labour Officer, Baripada ended in failure. Ultimately the matter was referred to this Court by the Government in the Labour & Employment Department for adjudication. The workman while challenging the action of the management has now prayed for his reinstatement in service with back wages and other service benefits. Hence, the reference.

4. The management filed its written statement opposing the claim of the workman. Subsequently the management did not participate in the hearing and was set *ex parte*. The *ex parte* hearing commenced on 25-10-2002.

5. During *ex parte* hearing the workman has stated that he was working under the management with effect from 1984. He had worked continuously till 1994 when he was refused employment. Before refusing employment, no notice or notice pay and retrenchment compensation was given to him. He has categorically stated that he has completed 240 days in 12 calendar months preceding the date of refusal of employment. He has now prayed for his reinstatement in service with back wages.

6. After carefully examining the sole evidence of the workman absolutely I find no reason to disbelieve his evidence. It is clearly evident from his evidence that although he had rendered continuous for about 10 years but the management without any rhyme or reason illegally terminated him from service with effect from 20-9-1994 without following the mandate of Section 25-F of the Act. The management, on the other hand, despite the opportunities, neither participated nor adduced any rebuttal evidence. In absence of any rebuttal

evidence, absolutely there is no reason to disbelieve the unchallenged testimony of the workman. In that view of the matter, I am of the considered view that the action of the management in discharging the workman from service with effect from 20-9-1994 was illegal and unjustified. In such premises, the workman is entitled to be reinstated in service as prayed for.

7. Hence, it is ordered :

ORDER

That the action of the management of Baripada Spinning Mill, Kathpal, Baripada, District. Mayurbhanj in discharging Shri Jadu Hembram, Doffer Gaiter, Ring Frame Department of the Mill from services with effect from 20-9-1994 is neither legal nor justified. The workman Shri Hembram is entitled to be reinstated in service but on the facts and circumstances of the case, as he had not worked with effect from the date of discharge, he is entitled to get a lump sum compensation to the tune of Rs. 5,000 (rupees five thousand) only in lieu of back wages.

The reference is thus answered accordingly *ex parte*.

Dictated and corrected by me.

P. K. SAHOO
7-3-2005
Presiding Officer
Labour Court
Bhubaneswar

P. K. SAHOO
7-3-2005
Presiding Officer
Labour Court
Bhubaneswar

By order of the Governor

D.MISHRA
Under-Secretary to Government